

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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KELLY C. GALLAGHER and  
ROBERT WYATT,

Plaintiffs,

v.

Case No. 19-11836

GENERAL MOTORS COMPANY,

Defendant.

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**ORDER TERMINATING WITHOUT PREJUDICE PLAINTIFFS' MOTION  
TO COMPEL AND MOTION FOR ORDER TO SHOW CAUSE**

Plaintiffs Kelly C. Gallagher and Robert Wyatt bring this action against Defendant General Motors Company claiming violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* (ECF No. 1.) Plaintiffs allege Defendant failed to pay its non-union contract employees overtime wages, and that Defendant did not keep and preserve required records. (*Id.*, PageID.65, ¶¶ 138-39.)

On August 5, 2020, Plaintiffs moved to compel Defendant to engage in discovery, noting that the existing discovery cutoff of September 26, 2020 was quickly approaching. (ECF No. 36, PageID.716.) Defendant responded, asserting that it intended to produce many of the documents Plaintiffs had requested, but the outbreak of the Coronavirus Disease ("COVID-19") presented unforeseen challenges to production. (ECF No. 38, PageID.1136-38.)

On August 6, 2020, Plaintiffs moved for an order to show cause why a third party should not be held in contempt of court for failing to comply with a subpoena. (ECF No.

37.) The third party filed a response indicating that Plaintiffs' motion was procedurally flawed. (ECF No. 40.)

The court held telephonic conferences with the parties and third party on September 21, 2020, and October 20, 2020. At both conferences, they indicated that they are cooperating in good faith to complete discovery on a timely basis and in satisfaction of all discovery needs. The parties and third-party continue to work together to resolve remaining disputes. On October 1 and November 2, 2020, the court approved amended scheduling orders which extended the discovery deadline from September 26, 2020, to January 29, 2021. (See ECF Nos. 50, 51.)

With the parties still engaged in cooperative efforts, the court will terminate without prejudice the pending discovery motions. (ECF Nos 36, 38.) This order does not affect Plaintiffs' substantive rights, but is issued to avoid any confusion caused by motions lingering unnecessarily on the docket. If necessary, Plaintiffs may refile their motions, at the appropriate time. Further, inasmuch as the parties are currently engaging in discovery, even if Plaintiffs pursue their motions, the motions will need to be updated to reflect any progress or setbacks experienced during discovery. Accordingly,

IT IS ORDERED that Plaintiffs' "Motion to Compel" (ECF No. 36) is  
TERMINATED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Plaintiffs' "Motion for Order to Show Cause"  
(ECF No. 37) is TERMINATED WITHOUT PREJUDICE.

s/Robert H. Cleland /  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: January 12, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 12, 2021, by electronic and/or ordinary mail.

s/Lisa Wagner /  
Case Manager and Deputy Clerk  
(810) 292-6522

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